

RESPONSE

Claims 1-9, 28-33, and 37-40 were pending in this Application, with claims 10-27, 34-36, and 41-47 having been previously withdrawn from consideration. Upon entry of this paper, claims 7-9 are cancelled without prejudice, claims 6, 30, and 39 are amended (note that claim 6 was amended to correct a typographical error), dependent claims 48-50 are newly-added, and claims 10-27, 34-36, and 41-47 remain withdrawn. Accordingly, claims 1-6, 28-33, 37-40, and 48-50 are presented for examination and reconsideration (claims 1, 3, 28, and 37 are independent). The Applicant acknowledges, with thanks, the Examiner's willingness to conditionally allow the subject matter of dependent claims 38-40. No new matter is introduced upon entry of this paper.

Rejections Under 35 U.S.C. §112, Second Paragraph

The Office Action rejected claims 30 and 39 of the Application under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Upon entry of this paper, claims 30 and 39 are amended to provide the proper antecedent bases for these claims. Accordingly, the Applicant respectfully requests that these rejections be reconsidered and withdrawn.

Rejections Under 35 U.S.C. §102(e)

The Office Action rejected claims 1, 28, 30, and 37 under 35 U.S.C. §102(e), as being anticipated by U.S. Patent No. 6,556,687 to Manabe (hereinafter "Manabe").

The present Application is a continuation-in-part of U.S. Patent Application No. 09/116,271 (hereinafter "the parent application") filed on July 16, 1998 (now abandoned). The subject matter recited in independent claims 1, 28, and 37 of this Application is supported by the disclosure of the parent application and thus benefits from the parent's July 16, 1998 priority date. Accordingly, Manabe, which was filed on February 22, 1999 and which is therefore predated by the parent application, is not a proper reference with respect to independent claims 1, 28, and 37. Note that Manabe does not benefit from its priority to a related Japanese application, JP10-040020, for prior art purposes (see MPEP §706.02(a), 706.02(f)(1), and 2136.03).

For at least the foregoing reason, the Applicant respectfully submits that independent claims 1, 28, and 37, as well as, the claims depending therefrom (e.g., claim 30) are not anticipated by Manabe and the Applicant therefore requests that the rejections under 35 U.S.C. §102(e) be reconsidered and withdrawn.

Please note that the Applicant's silence with respect to the substantive issues presented by the Office Action with respect to claims 1, 28, and 37 is not an acquiescence to the statements made by the Examiner in this regard, but merely an acknowledgement that any further explanation by the Applicant is not necessary to overcome the anticipation rejections, since Manabe is not a valid reference for these claims. Furthermore, silence with regard to the Examiner's rejection of a dependent claim (i.e., claim 30) is not an acquiescence to such rejection, but rather a recognition by the Applicant that such previously-lodged rejection is moot based on the Applicant's remarks relative to the corresponding independent claim, which the Applicant believes is allowable.

Rejections Under 35 U.S.C. §103(a)

The Office Action rejected claims 3-9, 29, and 31-33 under 35 U.S.C. §103(a), as being unpatentably obvious in view of combinations involving several references including, in some instances, the Manabe reference.

With respect to the obviousness rejections asserted against claims 3-6, 29, and 31-33, the subject matter recited in associated independent claims 3 and 28 of this Application is supported by the disclosure of the parent application and thus benefits from the parent's July 16, 1998 priority date. Accordingly and as previously discussed above in connection with the anticipation rejections, Manabe, which is used in combination with other references to support these obviousness rejections, is predated by the parent application and is therefore not a proper reference with respect to independent claims 3 and 28. For at least the foregoing reason, the Applicant respectfully submits that independent claims 3 and 28, as well as, the claims depending therefrom (i.e., claims 4-6, 29, and 31-33) are patentable over the cited references and the Applicant therefore requests that the rejections under 35 U.S.C. §103(a) be reconsidered and withdrawn for these claims

Please note that the Applicant's silence with respect to the substantive issues presented by the Office Action with respect to independent claims 3 and 28 is not an acquiescence to the statements made by the Examiner in this regard, but merely an acknowledgement that any further explanation by the Applicant is not necessary to overcome the rejections, since Manabe is not a valid reference for these independent claims. Furthermore, silence with regard to the Examiner's rejections of dependent claims 4-6, 29, and 31-33 is not an acquiescence to such rejections, but rather a recognition by the Applicant that such previously-lodged rejections are moot based on the Applicant's remarks relative to the corresponding independent claims, which the Applicant believes are allowable.

With respect to the obviousness rejections asserted against claims 7-9, the Applicant respectfully submits that such rejections are now moot in that claims 7-9 are cancelled without prejudice by this paper and thus are no longer pending in the Application. The Applicant therefore requests that these obviousness rejections be withdrawn. Note that cancellations of claims 7-9 are not an acquiescence to any of the rejections in the Office Action of December 5, 2003 and are made solely to expedite prosecution of the Application and without any intention of abandoning the subject matter of the claims, such that claims with the same, lesser, or greater scope may be pursued in a later-filed application.

Newly-Added Claims

Upon entry of this paper, dependent claims 48-50 are newly-added to the application. Claim 48 is directed at the "film-based transducer" aspect of the invention, while claims 49 and 50 are directed at the "carrier level control" aspect of the invention. Support for these new dependent claims can be found throughout the specification and thus their introduction does not result in the addition of new matter into the application. The Applicant respectfully submits that newly-added dependent claims 48-50 are allowable, at least because they depend from either independent claims 1 or 28, which the Applicant believes are allowable as previously discussed.

CONCLUSION

The Applicant considers the Response herein to be fully responsive to the referenced Office Action and respectfully submits that currently-pending claims 1-6, 28-33, 37-40, and 48-50 are patentable over the cited references and are, thus, in condition for allowance. Accordingly, the Applicant respectfully requests that all rejections be reconsidered and withdrawn and that the pending claims be passed to allowance. If there are any remaining issues or if the Examiner believes that a telephone conversation with Applicant's attorney would be helpful in expediting the prosecution of this application, the Examiner is invited to call the undersigned at 617-310-8424.

Respectfully submitted,



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Date: June 4, 2004
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